

ALIOTO LAW FIRM

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April 15, 2019

Via ECF

The Honorable Lorna G. Schofield
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Re: *John Nypl, et al. v. JP Morgan Chase & Co et al.*, No. 15-cv-9300 (LGS)
("Nypl")
In re Foreign Exchange Benchmark Antitrust Litigation No. 13-7789-LGS
("Forex")
Application for Order for Coordination and Extension of Time

Dear Judge Schofield:

Nypl Plaintiffs' counsel seek to take the deposition of Matthew Gardiner in the United Kingdom per their Motion For Issuance Of Hague Convention Request, (*Nypl* ECF No. 437) and their Stipulation And Order Concerning Deposition Coordination (*Nypl* ECF No. 425), as do the *Forex* Plaintiffs, who possess Mr. Gardiner's U.K. address as set forth in their papers, (*Forex* ECF No. 1273-1) (Ex. 1 attached). On April 11, 2019 I made a meet and confer telephone call to Christopher Burke, *Forex* counsel and requested Mr. Gardiner's address in the U.K. followed by the attached e-mail on April 12, 2019 (Ex. 2 attached) requesting the address with the attached reply declining my request. (Ex. 3 attached). I need Mr. Gardiner's address to comply with this Court's Order requiring *Nypl* counsel to include Mr. Gardiner's address in our motion papers, which Order I forwarded to Mr. Burke. In the meantime, I sent an e-mail request to UBS counsel, who has not as yet responded.

The *Nypl* Plaintiffs submit this application for an order for *Forex* counsel to provide Mr. Gardiner's U.K. address to *Nypl* counsel and to give *Nypl* counsel advance notice of the scheduling and noticing of depositions in the U.K. and Europe in the *Forex* case.

Nypl counsel also request an extension of time to April 25, 2019, to comply with this Court's Order to include Mr. Gardiner's address in their motion papers.

ALIOTO LAW FIRM
Page 2

Respectfully submitted:

ALIOTO LAW FIRM

LAW OFFICES OF LINGEL H. WINTERS P. C.

By: /s/ Joseph M. Alioto
Joseph M. Alioto

By: /s/ Lingel H. Winters
Lingel H. Winters

cc: Counsel of Record via ECF

EXHIBIT 1

(“FX”) trader in G10 currencies at Barclays, UBS, and Standard Chartered in London during the Class Period. He has knowledge relevant to this action as described more fully herein.

The testimony of Mr. Gardiner is not available from any source within the jurisdiction of the Southern District, and cannot be obtained by any means other than pursuant to an order of appropriate judicial authority of the United Kingdom, compelling the witness to appear for examination. Mr. Gardiner, a non-party to this action, resides at [REDACTED], United Kingdom.

This request is made with the understanding that, and on the basis that any order made pursuant to this request: (1) will not require Mr. Gardiner to commit any offense; (2) will not require Mr. Gardiner to undergo a broader form of inquiry than he would have if the litigation were conducted in United Kingdom; and (3) will not violate the laws of civil procedure of any English court.

The Southern District, therefore, in conformity with Article 3 of the Hague Convention, respectfully requests that you, in furtherance of justice by the proper and usual process of your Court, cause Mr. Gardiner to appear before an official examiner authorized to administer oaths, and to take testimony, at a precise time to be fixed by you, and answer on his oath or affirmation questions and cross-questions, and that you will direct his deposition to be transcribed and recorded by video, and the transcript and video be sent to counsel for the parties in the action, who so request a copy. The Southern District stands ready to provide similar judicial assistance to judicial authorities in the United Kingdom when required.

Finally, this Court requests from the judicial authority in England that this Letter of Request and its exhibits, and the declaration of Christopher M. Burke dated February 25, 2019, and its exhibits, be closed to public inspection to the maximum extent permitted by your laws

EXHIBIT 2

From: Lingel H. Winters <sawmill2@aol.com>

To: cburke <cburke@scott-scott.com>

Subject: Gardiner's address

Date: Fri, Apr 12, 2019 12:58 pm

Attachments: Order Gardiner's Address.pdf (305K)

Chris--

Yesterday I called you and asked for Matthew Gardiner's address in the U.K. and you said you would get back to me. Attached is Judge Schofield's Order re: Gardiner's address. Please provide me with Gardiner's address--preferable by e-mail at sawmill2@aol.com or phone (415) 398-2941 right away so I can comply with Judge Schofield's Order before April 18.

Thank you.

Lingel H. Winters

Ex. 2

EXHIBIT 3

From: Christopher M. Burke <cburke@scott-scott.com>
To: Lingel H. Winters <sawmill2@aol.com>
Subject: RE: Gardiner's address
Date: Fri, Apr 12, 2019 1:16 pm
Attachments: scott-scott_f0da203d-cf5e-40f3-b8ba-0a7378ad9dea.jpg (3K), scott-scott_79f6cc68-b36a-4e09-b5e2-99a2323dca3a.jpg (3K)

Dear Lingel,

We discussed this and believe you should start by contacting UBS and Gibson.

Best,

Chris



Christopher M. Burke, Attorney
SCOTT+SCOTT Attorneys at Law LLP
600 West Broadway, Suite 3300
San Diego, CA 92101

Phone 619.798.5300
www.scott-scott.com

Ex. 3

This e-mail message may contain confidential or privileged information. If you believe you have received it in error, please notify the sender immediately and delete this message without copying or disclosing it.

From: Lingel H. Winters [mailto:sawmill2@aol.com]
Sent: Friday, April 12, 2019 12:59 PM
To: Christopher M. Burke <cburke@scott-scott.com>
Subject: Gardiner's address

Chris--

Yesterday I called you and asked for Matthew Gardiner's address in the U.K. and you said you would get back to me. Attached is Judge Schofield's Order re: Gardiner's address. Please provide me with Gardiner's address--preferable by e-mail at sawmill2@aol.com or phone (415) 398-2941 right away so I can comply with Judge Schofield's Order